

SENATE BILL REPORT

SB 6212

As of January 12, 2010

Title: An act relating to permit review for small scale fish enhancement projects.

Brief Description: Regarding permit review for small scale fish enhancement projects.

Sponsors: Senator Haugen.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 1/11/10.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Staff: Curt Gavigan (786-7437)

Background: Hydraulic Project Approvals (HPA). A HPA is required for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. HPAs are issued by the Department of Fish and Wildlife (DFW) to ensure the proper protection of fish life.

Fish Habitat Enhancement Project (FHEP) Criteria. In order to be considered a FHEP, a project must receive approval through a specified entity, such through sponsorship by DFW or a conservation district. Additionally, a FHEP must be a project to:

- eliminate human-made fish passage barriers;
- restore an eroded or unstable streambank using bioengineering; or
- place woody debris or other structures that benefit natural reproducing fish stocks.

Statute requires DFW to develop size or scale threshold tests to determine if a project should be approved through the FHEP process.

FHEP Project Review. A FHEP receives expedited review under the HPA process, including an exemption from:

- the requirement to produce an Environmental Impact Statement under the State Environmental Policy Act; and
- permits or fees imposed by a local government.

Summary of Bill: Two changes are made to the qualification criteria for FHEPs. The bill:

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- specifies that projects to eliminate human-made fish passage barriers may only qualify as FHEPs if such barriers are instream barriers; and
- adds language providing that projects to restore a streamside channel or riparian wetland area less than one acre in size may qualify as FHEPs.

DFW may not approve additional FHEPs until it has developed and adopted rules to define size and scale thresholds for FHEPs.

Appropriation: None.

Fiscal Note: Requested on January 7, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The use of the FHEP process has gotten out of hand. DFW has never issued size and scale criteria for FHEP projects as required in statute. DFW is using the process to approve large projects, but we must ensure appropriate opportunities for public review and public comment. This bill is based on a Hydraulic Appeals Board ruling that said DFW improperly used the FHEP process for a levee removal project on Leque Island.

CON: Salmon and habitat projects may be small in terms of HPA numbers, but they are very complex. Slowing down FHEP processing will limit the ability to accomplish these projects. Requiring project sponsors to obtain local permits and pay fees will increase their burden. The way to deal with concerns is to meet with the local governments in the early stages of a project.

OTHER: DFW issues about 160 FHEP permits per year, and has seen an increase in the size of proposed projects. Local governments have 15 days to provide input to DFW. DFW did develop size and scale criteria; stakeholders asked it not to set arbitrary limits.

Persons Testifying: PRO: Senator Haugen, prime sponsor; Ed Moats, Snohomish County Farm Bureau; Mike Shelby, Western Washington Agricultural Assn.; John Stuhlmiller, Washington Farm Bureau.

CON: Paul Ancich, Regional Fisheries Enhancement Group Coalition; Tony Meyer, Lower Columbia Regional Fisheries Enhancement Group.

OTHER: Peter Birch, DFW.